

Disrupting Organised Crime: An Examination of Criminal Association Laws and their Effectiveness.

Goldsworthy, Terrence; Lincoln, Robyn

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Disrupting Organised Crime: An Examination of Criminal Association Laws and their Effectiveness

Presented by
Assistant Professor Terry Goldsworthy
with co-authors Robyn Lincoln and Matthew Raj





Outline

Our primary focus is the Queensland Criminal Organisation Act and its anti-association laws with reference to other jurisdictions

- Initial questions
- Parameters of organised crime
- The scope of the problem
- The issue of membership
- The international experience
- The success of traditional techniques



Initial questions

- Bikies or OMCs do commit crime
- The questions are:
 - What type of crime are OMCs involved in?
 - What is the extent of such activity?
 - What is the most appropriate and effective policing response?



The focus of the law- OMCGs

- Former Attorney General Cameron Dick, 2nd reading of the Bill into parliament - "The bill seeks to disrupt and restrict the activities of criminal organisations and their members and associates."
- "Members of outlaw motorcycle gangs and other criminal organisations... pose a threat to Queensland...The extraordinary powers provided for in this bill are necessary ..."
 - Focus of the act is to provide an additional method for combating organised criminal activity, but will it?
 - The structure and make up of OMCGs is markedly different from other organised crime groups
 - OMCGs are variable – hierarchy does not always match the crime, the group v individuals within it

The current local SITREP

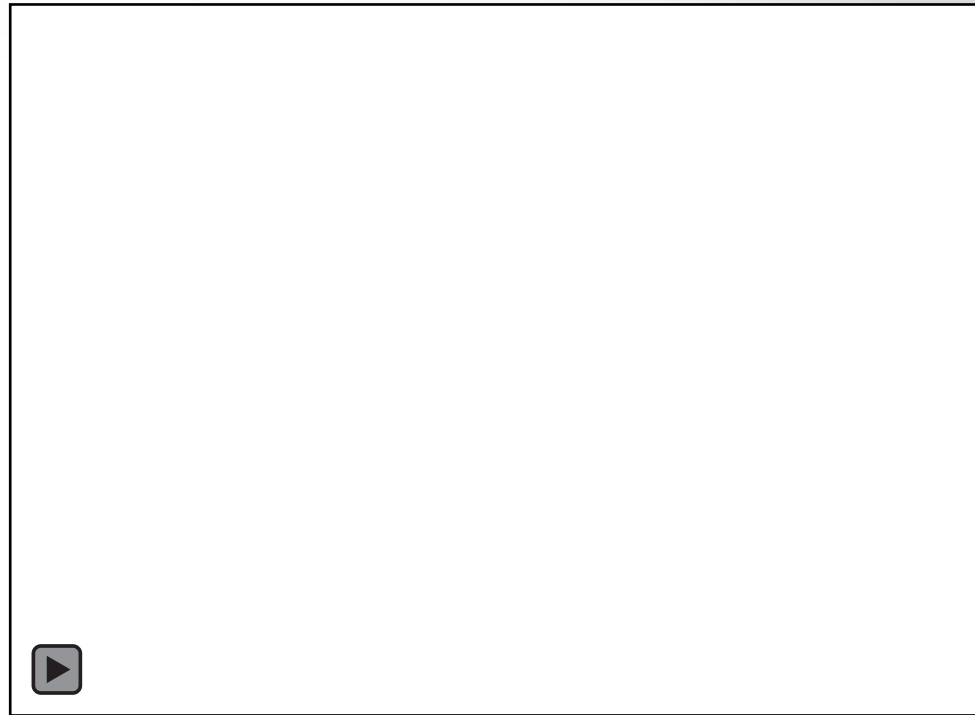
- In Qld some 15-16 gangs
- Membership state-wide some 900-950 members






The type of crime

- The Bikie Blitz Royal Pines resort – March 2006
- The assault in the Broadbeach Mall - Jan 2008





Parameters of organised crime

- Qld Police Minister Jack Dempsey on the High Court ruling in favour of the Qld Criminal Organisation Laws March 2013
“...clearing the way for a possible ban on the Gold Coast chapter of the Finks. Coupled with the unexplained wealth laws, **this will strike at the heart of organised crime.**”
- So what is organised crime?
 - The Qld Crime and Misconduct Commission refers to drugs, property and weapons offences
 - The QPS website refers to combating organised crime by telephone intercepts, OMCGs, the Criminal Association laws, confiscation of proceeds of crime, fraud, rebirthing of vehicles and targeting burglars
 - The 2012 QPS Annual report lists it as a strategic priority
 - The Criminal Organisation Act (Qld) talks about “serious criminal activity”



Parameters of organised crime

- Major crime defined Under the *Crime and Misconduct Act 2001 (Qld) Schedule 2* encompasses:
 - **organised crime** — criminal activity undertaken with the purpose of gaining profit, power or influence, and involving offences punishable by not less than seven years' jail, two or more people, and **planning and organisation or systematic and continuing activity**
- Australian Crime Commission Act 2002 states organised crime means an offence:
 - that involves two or more offenders and **substantial planning and organisation**, and
 - that involves, or is of a kind that ordinarily involves, the use of **sophisticated methods and techniques**,...



The role of OMCGs in organised crime

- Federal Parliamentary Joint Committee 2009 “The level of OMCG involvement in serious and organised crime is difficult to clearly establish... OMCGs are a visible and therefore prominent target in both the political and public arenas, and that serious and organised crime often involves a level of sophistication or capacity above that of many OMCGs.”
- Moral panic in relation to the threat provided by OMCGs
- Political expediency to be seen to be tough on crime



An accurate threat assessment

- To what level are “bikie” groups involved in serious and organised crime?
- ACC - OMCGs are not the **primary criminal threat in Australia**
- The ACC states that OMCGs “do not pose more or less of an organised crime threat than many other groups and individuals...”
- ACC cont. “However, it is difficult to gauge the percentage of organised crime attributed specifically to OMCG members... they are just one part of the broader and integrated picture of organised crime groups in Australia.”
- VICPOL assessment “...we have bigger fish to fry with what we are doing and focusing on...there seems to be a real preoccupation in the media with the subject as well.”



The extent of criminal involvement

- Total crime reported for the South East Region for the year 2011/2012 was 88756 offences in 3 major categories
- Reported crime committed by OMCG groups for the South Eastern Region for a 12 month period was approximately 764 offences*
- This means approximately .9% of crime in the region over a 12 month period can be attributed to OMCGs
- If you remove non-member associates this drops to approximately .4% of crime for the period
- Even less if you consider serious or organised crime



Membership issues

- Press release by QPS Assistant Commissioner SER (Gold Coast) 12 June 2013
- Media conference conducted to allay public fear and showcase work being done by police to combat bikies
- A range of serious offences and number of arrests
- "The persistence and determination of police, to ensure OMCG members and associates are held accountable for their actions, is relentless."

	MEMBER	COMBINATION (EX MEMBER, PROBATIONARY, PROSPECT AND NOMINEE)	ASSOCIATE
COOMERA	38%	8%	54%
GOLD COAST	29%	10%	61%
LOGAN	46%	18%	36%
TOTAL	33%	11%	56%



Membership issues

- Detective Inspector in charge of Task Force Hydra, QPS elite anti-bikie unit, ABC radio interview on 8 July 2013
- “A bikie associate is not a member and really **I think it’s very irresponsible to link those people with an outlaw motorcycle gang**” and further...
- “Well, what I can say is that if the person is not a member of an outlaw motorcycle gang and is involved in an offence, it is not really bikie related. It doesn’t have the same effect. **An associate is not a member. That person is not a member of an OMCG therefore it is not bikie involved.**”



Membership issues

- What does the act tell us, schedule 2?
 - (a) if the organisation is a body corporate—a director or officer of the body corporate;
 - (b) a member, associate member or prospective member, however described, of the organisation;
 - (c) a person who identifies himself or herself, in some way, as belonging to the organisation;
 - (d) a person who is treated by the organisation as if he or she belongs to the organisation;
 - (e) a person who associates with a member of the organisation for the purpose of engaging in, or conspiring to engage in, serious criminal activity.
- Criticisms from the NSW DPP re how broad the term membership is
- QPS – “...it does not necessarily mean the entire club is involved”



The international experience

Experience in Canada, New Zealand, UK:

- No discernible impact on organised criminal enterprise (money laundering, drug involvement)
- Can result in elevated violence including attacks against law enforcement
- Costly in time and money re litigation because of broad reach and poor definitions
- Some successful prosecutions but evidence is difficult to amass, costly and lengthy proceedings
- Disrupt balance between human rights and community protection and control orders can breach procedural fairness



“The current Qld Govt –They don’t work”

- Qld Premier Newman when asked about the laws “...That is just here and now as **a stop-gap** until we get the chance to go to Parliament and really do some good there” - April 2012
- Qld Attorney General Bleijie “We have the laws but we will review them,... it does stamp on the civil liberties of people. **It is not anti-bikie laws but anti-association laws.**” - Courier Mail April 2012 and further...
- “The Newman government **does not think anti-association laws are the right way to deal with rogue bikie gangs and other organised crime syndicates**” - Brisbane Times April 2012
- Former LNP leader Lawrence Springborg stated that “Labor's anti-association laws **do nothing to stop organised crime groups** from racketeering and drug pushing .. they don't work” – Fraser Coast Chronicle November 2010



Disadvantages of the legislation

- “It should be noted that the Queensland Police Service already possesses extensive powers to attack crime” - Former AG Cameron Dick in the 2nd reading into parliament
 - Crime Displacement – new players, new markets
 - Driving of crime “underground”
 - Resource intensive – the potential number of control orders
 - Failure of the legislation to be flexible enough to deal with other organised crime groups
 - Will be difficult to enforce for all but the most visible of groups
 - Narrow focus
- The ACC assessment said that whilst it may impact OMCGs “for the majority of the organised crime figures of concern to the ACC it is unlikely to make a significant difference to their respective modus operandi.”



Practical investigative techniques

- Effective intelligence gathering and analysis
- Intelligence driven policing – targeting and effective use of your resources
- Send out a clear message to the criminal element
- Flexible operational practices
- Coercive hearings
- Proceeds of crime
- Going back to the basics – VICPOL example
- Telephone intercepts
- Other electronic surveillance modes
- Multi-agency and multi-sector task forces – new methods of investigation
- Look at where the money is that is where organised crime is - VICPOL



Conclusion

- The current government clearly has misgivings about the nature of the legislation
- There is confusion about the role OMCGs play in organised crime as compared to serious crime, the threat is overstated
- There is confusion about who is actually associated with OMCGs
- Traditional tools are working fine, the answer is more effective policing rather than more draconian laws
- This appears to be a knee jerk reaction to moral panic



Questions

